

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



BZA Application No. 13688, of William Calomiris, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 5101.3) to permit a drive-in window addition to an existing restaurant in a C-1 District at the premises 3015 Naylor Road, S. E., (Square 5720, Lot 50).

HEARING DATE                      February 24, 1982  
DECISION DATE:                  February 24, 1982 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located on the south side of Naylor Road between 30th Street to the west and Southern Avenue to the east. It is known as premises 3015 Naylor Road, S. E. It is in a C-1 District.

2. The subject site is basically level and rectangular in shape. It is located in a small shopping center fronting on Naylor Road containing various commercial uses such as a barber shop, dry cleaner, package store carry-out, and a medium sized grocery.

3. The subject site is improved with a free standing brick and glass building with a mansard roof. This building houses a Church's Fried Chicken Restaurant.

4. The shopping center contains approximately fifty-three parking spaces, four of which are for the use of the subject restaurant's customers.

5. The applicant proposes to add a drive-thru window to the existing restaurant to provide service to patrons of the restaurant during inclement weather and to those not wishing to leave their automobiles. There will be no audio speaker board in connection with the proposed use.

6. The Office of Planning and Development, by report dated February 19, 1982, recommended that the application be denied. The OPD found no evidence of undue hardship that prevented the applicant from putting the site to a use for which the site was zoned. There was no hardship which supported the granting of a use variance. The Board concurs in the OPD recommendation.

7. A memo from the D. C. Department of Transportation to the Office of Planning and Development was read into the record which stated that, "Drive in windows are usually potential problems from a traffic or safety standpoint." Without additional information the DOT staff was unable to determine if or to what extent there would be a problem in the subject application.

8. Mary F. Ross, Advisory Neighborhood Commissioner from Single Member District 8B04, opposed the application on the grounds that it would add to congestion in the area, use additional parking space, and make more difficult the community's access to community-serving businesses in the shopping center. The SMD Commissioner stated that the ANC concurred with her report but had not had a formal meeting on this matter. The Board requested that the ANC recommendation be put in writing for the record.

9. The applicant requested permission to withdraw the application without prejudice. The Chair denied the request and continued to hear the case on its merits.

10. The applicant presented no evidence of an exceptional or extraordinary condition existing in the proposal. The applicant further presented no evidence or testimony indicating that the strict application of the Regulations would cause any undue hardship for the owners of the property.

#### CONCLUSIONS OF LAW AND OPINION:

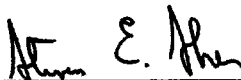
Based on the foregoing Findings of Fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires the showing of hardship upon the owner that is inherent in the property itself. The Board concludes that no such hardship exists. The site is level and rectangular in shape and the existing development attests to its ability to be used in accordance with the C-1 use provisions.

The Board further concludes that the proposed use would adversely impact traffic in the shopping center and on Naylor Road. The Board also concludes that the relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application be DENIED.

VOTE: 5-0 (Walter B. Lewis, Connie Fortune, Douglas J. Patton, William F. McIntosh and Charles R. Norris to DENY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
\_\_\_\_\_  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

APR 12 1982

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO  
DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN  
DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL  
RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING  
ADJUSTMENT."